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UNITED STATES BANKRUPTCY COURT
IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

In re:

No.: **08-00131-FLK11**

**KENNETH OSCAR & LAURI MAY
KUNES, d/b/a FLYING K. ORCHARD,**

Chapter 11

FINDINGS OF FACT

Debtors.

THIS MATTER coming before the Court upon the issues raised by Debtors' request for confirmation of Debtors' Amended Plan of Reorganization ("Plan") and based upon the evidence produced, the Court now makes the following:

FINDINGS OF FACT

1. Debtors' Amended Plan of Reorganization was filed herein on June 24, 2008 and was submitted to Creditors and other parties in interest;

2. That the Plan has been accepted in writing by the creditors and equity security holders whose acceptance is required by law; and

3. That the provisions of Chapter 11 of the United States Code have been complied with and the Plan has been proposed in good faith and not by any means forbidden by law; and

4. That (a) each holder of a claim or interest has accepted the Plan or will receive or retain under the Plan property of a value, as of the effective date of the Plan, that is not less than the amount that such holder would receive or retain if the Debtors

Findings of Fact-1

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1 were liquidated under Chapter 7 of the Code on such date, or (b) the Plan does not
2 discriminate unfairly, and is fair and equitable with respect to each class of claims or
3 interests that is impaired under, and has not accepted the Plan; and

4 5. All payments made or promised by the Debtors or by a person issuing
5 securities or acquiring property under the Plan or by any other person for services or for
6 costs and expenses in, or in connection with, the Plan and incident to the case, have been
7 fully disclosed to the Court and are reasonable and are hereby approved, or, if to be fixed
8 after confirmation of the Plan, will be subject to approval of the Court; and

9 6. Confirmation of the Plan is not likely to be followed by the liquidation, or the
10 need for further financial reorganization of the Debtors, or (b) if the Plan is a plan of
11 liquidation, the Plan sets a time period in which liquidation will be accomplished, and
12 provides for the eventuality that the liquidation is not accomplished in that time period; and

13 7. That pursuant to the Plan, the following acts or events constitute substantial
14 consummation of the Plan: sixty (60) days following Confirmation, provided that Debtors
15 have paid all installments provided by this Plan to be paid within that time.

16 8. Creditors were given Notice of Confirmation and no objections thereto were
17 made, or if made, have been resolved.

18 9. It is proper that Debtors' Plan be confirmed, subject to the following:

19 a. Notwithstanding any provision of the Plan to the contrary, the claim of
20 KeyBank National Association (Class 6) shall be treated pursuant to the terms of
21 "Order for Relief from Stay" entered herein on June 27, 2008;

22 Findings of Fact-2

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1 b. Notwithstanding any provision of the Plan to the contrary, the claim of
2 Clifford Harden, et ux. (Classes 7 & 9) shall be allowed and treated pursuant to
3 “Order on Objection to Claim of Harden” entered herein on August 11, 2008.

4 c. Notwithstanding any provision of the Plan to the contrary, no payment
5 on the claim of Ruth Kunes shall occur until the pending objection to said claim filed
6 by Clifford Harden, et ux on September 3, 2008, under docket number 140, is
7 adjudicated.

8 PRESENTED BY:

9 SOUTHWELL & O'ROURKE, P.S.
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11 BY: /s/ Kevin O'Rourke
12 KEVIN O'ROURKE, WSBA #28912
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Frank L. Kurtz
Bankruptcy Judge

Findings of Fact-3

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